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In re Application of MARSHALL et al	:	
U.S. Application No.: 10/070,238	:	DECISION ON PETITION
Int. Application No.: PCT/AU00/01047	:	
Int. Filing Date: 31 August 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 31 August 1999	:	
Attorney Docket No.: GC-371-US	:	
For: METHODS AND DEVICES FOR OBTAINING	:	
SAMPLES FROM HOLLOW VISCERA	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 04 June 2002.

BACKGROUND

On 31 August 2000, applicant filed international application PCT/AU00/01047, which claimed priority of an earlier Australia application filed 31 August 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 08 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 30 March 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2002.

On 28 February 2002, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US).

On 14 May 2002, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned as to the United States for failure to timely file the requisite basic national fee.

On 04 June 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), in cases where the USPTO was neither the International Searching Authority (ISA) nor the International Preliminary Examining Authority (IPEA) and where the International Search Report was not prepared by the EPO or JPO, the requisite basic national fee is \$520.00 as set forth by 37 CFR 1.492(a)(3). Applicant has submitted \$445.00 towards the basic national fee. The remaining \$75.00 for the basic national fee will be charged to Deposit Account No.16-0478 as authorized in the present petition.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed an oath or declaration in compliance with 37 CFR 1.497 must be submitted.



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